

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 392

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Read 1st time January 30, 2003, and 1,000 copies ordered printed.

Read 2nd time February 10, 2003, and referred to the Committee on Commerce and the Environment.

Reported from the Committee March 10, 2003, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up April 2, 2003. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1412S.01P

AN ACT

To repeal sections 260.475 and 260.479, RSMo, and to enact in lieu thereof two new sections relating to hazardous waste generator fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 260.475 and 260.479, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.475 and 260.479, to read as follows:

260.475. 1. Every hazardous waste generator shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

- (1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;
- (2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;
- (3) Solid waste from the extraction, beneficiation and processing of ores and minerals,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

- (4) Cement kiln dust waste;
- (5) Waste oil; or
- (6) Hazardous waste that is:
 - (a) Reclaimed or reused for energy and materials;
 - (b) Transformed into new products which are not wastes;
 - (c) Destroyed or treated to render the hazardous waste nonhazardous; or
 - (d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. Sixty percent of all moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste remedial fund created in section 260.480. Forty percent of all moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee, sixty percent of which shall be deposited in the hazardous waste remedial fund, and forty percent of which shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, sixty percent of which shall be deposited in the hazardous waste remedial fund, forty percent of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste remedial fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste remedial fund.

7. No fee shall be collected pursuant to this section after January 1, [2005] **2010**.

260.479. 1. The hazardous waste management commission shall establish, by rule, two subdivisions of hazardous waste based upon the management method. Subdivision A shall

include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which shall be taxed pursuant to subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. The director shall annually request that a minimum of one million dollars be appropriated from general revenue funds for deposit in the hazardous waste remedial fund created pursuant to section 260.480.

2. Except as provided in this subsection and subsection 5 of this section, each hazardous waste generator registered with the department of natural resources, except the state and any political subdivision thereof, shall pay a fee based on the volume of waste produced in each of the subdivisions A and B as follows:

(1) For subdivision A waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: twenty-one dollars and eighty cents plus the product of 7.9890 cents times the amount of waste in short tons, except that the fee for subdivision A waste shall not exceed eighty thousand dollars; and

(2) For subdivision B waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: ten dollars and ninety cents plus the product of 3.9945 cents times the amount of waste in short tons, except that the fee for subdivision B waste shall not exceed forty thousand dollars.

No company shall pay more than eighty thousand dollars annually pursuant to this subsection; provided that all fee amounts established pursuant to this subsection may be adjusted annually by the commission by an amount not to exceed two and fifty-five hundredths percent. No individual generator subject to a fee pursuant to this section shall pay less than fifty dollars annually.

3. No tax shall be imposed pursuant to this section upon hazardous waste generators whose waste consists solely of waste oil or facilities licensed pursuant to chapter 197, RSMo. The commission may exempt intermittent generators or generators of very small volumes of hazardous waste from payment of fees required pursuant to this section, provided those generators comply with all other applicable provisions of sections 260.360 to 260.430.

4. Any hazardous waste generator registered with the department which discharges waste to a publicly owned treatment works having an approved pretreatment program as required by chapter 204, RSMo, shall not pay any fee required in sections 260.350 to 260.550 on such waste discharged which is in compliance with pretreatment requirements. The hazardous waste management commission may exempt such generators from the provisions of sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

5. No fee shall be imposed pursuant to this section upon any hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from the processing of materials into reclaimed metals. Fees on hazardous waste fuel produced from hazardous waste by processing, blending or other off-site treatment shall be assessed and collected only at the facility where such hazardous waste fuel is utilized as a substitute for other fuel. No facility using hazardous waste fuel shall pay more than eighty thousand dollars annually pursuant to this subsection for the first fiscal year fees are assessed pursuant to this section, and such maximum amount may be adjusted annually thereafter by the commission by an amount not to exceed two and fifty-five hundredths percent. This subsection shall not be construed to apply to hazardous waste used directly as a fuel that has not been processed, blended, or otherwise treated off site. Such waste shall be subject to the fees established in subsection 2 of this section.

6. The department may establish by rule and regulation categories of waste based upon waste characteristics pursuant to subsection 2 of section 260.370. When the commission adopts hazardous waste categories, it shall establish and annually revise a fee schedule based upon waste characteristics. Each generator shall annually pay a fee, in lieu of the fee required in subsection 2 of this section, based upon the volume of waste produced annually within each hazard category.

7. All fees within this section shall be based on hazardous waste produced within the preceding state fiscal year beginning with July first of the year this section goes into effect and payable at the end of the calendar year on December thirty-first and annually thereafter in the same manner; provided that no liability for fees shall be accrued pursuant to subsection 5 of this section for any waste used as a fuel prior to August 28, 2000.

8. The department shall promptly transmit sixty percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste remedial fund created pursuant to section 260.480. The department shall promptly transmit forty percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste fund created pursuant to section 260.391.

9. Notwithstanding any other provision of law to the contrary, no tax based on the number of employees employed by a hazardous waste generator shall be collected. No tax or fee shall be levied pursuant to this section after January 1, [2005] **2010**.